

UNITED STATES OF AMERICA, :
 :
 v. : 08-CR-132-A
 :
 TERRY L. FINN, :
 :
 Defendant. :

The government hereby agrees with the findings of the Presentence Investigation Report ("PSR") with respect to sentencing factors in this case, except the findings concerning the defendant's criminal history category. The parties agreed in the plea agreement that the defendant was a criminal history category II and a Guideline range of 78 - 97 months, whereas the Presentence Report found the defendant's Criminal History to be category I and a Guideline range of 70 - 87 months. Pursuant to United States v. Lawlor, 168 F.3d 633 (2d Cir. 1999), the Government is bound to advocate the calculation in the plea agreement.

Should the defendant present any letters of support or sentencing statement to the Court, the United States will move to strike the items from the record if this office is not provided with copies at least three business days prior to sentencing.

Upon the ground that the defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, the government hereby moves the Court to apply the additional one (1) level downward adjustment for acceptance of responsibility pursuant to U.S.S.G. §3E1.1(b).

The defendant is required by 18 U.S.C. § 3013 to pay the sum of \$100 at the time of sentencing.

DATED: Buffalo, New York, July 29, 2008.

Respectfully submitted,

TERRANCE P. FLYNN
United States Attorney

BY: **s/Marie P. Grisanti**
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United States Probation Department
Attn: Kathleen A. Horvatits, USPO

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, :

v. : 08-CR-132-A

TERRY L. FINN, :

Defendant. :

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2008, I electronically filed the **STATEMENT OF THE GOVERNMENT WITH RESPECT TO SENTENCING FACTORS** with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

- 1) Kimberly A. Schechter, AFPD
- 2) United States Probation Department
Attn: Kathleen a. Horvatits, USPO

s/Laura Rogers

LAURA ROGERS
Legal Assistant